

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

ELMER L. THOMAS,

Plaintiff

-vs-

GERALD NORRIS, et al.,

Defendants

NO. 3:CV-02-1854

(Judge Kosik)

**ORDER**

Before the court is plaintiff's "Motion to Nullify Magistrate Blewitt's August 4, 2005 Order Received by Plaintiff on August 11, 2005, that Immunes CO Elaine Dixon's Inclusion as the Defendants Coconspirator by Misconstruing the Claims to Fit the Criteria of Legal Justification to so Order." We will construe plaintiff's motion as an objection to the Report and Recommendation of the Magistrate Judge.

Plaintiff, Elmer L. Thomas, an inmate at SCI-Huntingdon, filed a complaint in the instant action pursuant to 42 U.S.C. §1983 on October 15, 2002. Defendants filed an Answer to the complaint on April 8, 2003.

On August 1, 2005, plaintiff filed a "Motions to Add Huntingdon (SCI) Officer Elaine Dixon as a Codefendant Under F.R.C.P. 15, to Update Status of Defendant John Rivello's Absence, and to Render Judgment on Restraining Order Requested." In his cursory four-paragraph motion, plaintiff requested several forms of relief. In an Order filed on August 4, 2005, the Magistrate Judge found the request pertaining to a restraining order to be moot in that it had already been ruled on, the request to add Corrections Officer Dixon as a defendant insufficient to state a conspiracy claim against her, and granted the request on a status report regarding defendant Rivello.

On August 19, 2005, plaintiff filed his "Motion to Nullify Magistrate Blewitt's August 4, 2005 Order Received by Plaintiff on August 11, 2005, that Immunes CO Elaine Dixon's Inclusion as the Defendants Coconspirator by Misconstruing the Claims to Fit the Criteria of Legal Justification to so Order." In his objections to the Magistrate Judge's Order, plaintiff states that his mail had been opened and closed and that the conduct by defendants was retaliatory. The plaintiff also sets forth claims against CO Dixon which he alleges bear out the existence of a conspiracy.

We have reviewed the Magistrate Judge's Order in light of plaintiff's objections and we do not find the August 4, 2005 Order to be clearly erroneous or contrary to law, 28 U.S.C. §636. Accordingly, we will dismiss the plaintiff's objections.

NOW, THEREFORE, this 13<sup>th</sup> day of September, 2005, IT IS HEREBY ORDERED THAT:

- (1) The plaintiff's objections to the August 4, 2005 Order of the Magistrate Judge (Document 35) are dismissed; and,
- (2) The Magistrate Judge's August 4, 2005 Order will stand.

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s/Edwin M. Kosik  
United States District Judge